

STATUS OF THE CLAIMS

Claims 1-22 were pending.

Claims 1 and 9-12 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Bell, et al. (US 4,504,509).

Claims 2-6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bell, et al. (US 4,504,509) in view of Richards, et al. (US 4,035,235).

Claims 8 and 13-22 have been rejected under 35 U.S.C. § 103(a) as being patentable over Bell, et al. (US 4,504,509) in view of Wu et al. (US 5,648,110).

Claims 1, 2 and 7 have been rejected under 35 U.S.C. § 103(a) as being patentable over Shi, et al. (US 2003/0099744).

Claims 1, 3-4, 8, 14 and 20 have been amended.

Claims 1-22 are presented for reconsideration.

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REMARKS

Claims 1, 3-4, 8, 14 and 20 have been amended to clarify that the starch succinate is a starch succinate ester. Descriptive basis for this amendment may be found in the specification at page 5, line 8. Claim 1 has been further amended to clarify that the coated food portion which is subsequently fried or par-fried, descriptive basis for which may be found in original claim 14.

Claims 1 and 9-12 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Bell, et al. (US 4,504,509). Bell discloses a liquid batter for use in coating foodstuffs which comprises ungelatinized, highly crosslinked, high amylose starch. The crosslinking agent may be selected from the group specified in col. 3. The Examiner notes that one of these reagents is succinic anhydride. The skilled artisan would understand that crosslinking with succinic anhydride forms a succinate diester. In contrast, the claims as amended, claim a composition which comprises a starch succinate ester, which is not a crosslinked starch.

Claims 2-6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bell, et al. (US 4,504,509) in view of Richards, et al. (US 4,035,235). As explained above, Bell does not disclose using a succinate ester, but a starch crosslinked with succinic anhydride. The Examiner then uses Richards to teach that starch derivatives may be converted. However, as Bell does not teach the presently claimed starches, this rejection has been overcome.

Claims 8 and 13-22 have been rejected under 35 U.S.C. § 103(a) as being patentable over Bell, et al. (US 4,504,509) in view of Wu et al. (US 5,648,110). As explained above, Bell does not disclose using a succinate ester, but a starch crosslinked with succinic anhydride. The Examiner then uses Wu to teach that adding a different type of starch in addition to the main starch component. However, this does not cure the deficiency of Bell and the rejection is therefore overcome.

Claims 1, 2 and 7 have been rejected under 35 U.S.C. § 103(a) as being patentable over Shi, et al. (US 2003/0099744). Shi discloses glazing food using a converted starch. The starch may be modified using any chemical modification, specifying that particularly useful starches are acetylated, hydroxyalkylated, phosphorylated, succinated and substituted succinate derivatives. However,

modification is only an optional step and succinated starches just one of the possible modifications with none of the examples showing such succinated starches. The Examiner states that Shi does not disclose the food composition is a fried composition but that it would have been obvious to one skilled in the art to make a fried composition when wanting food having a different texture and flavor. However, the skilled artisan would not be motivated from a reading of Shi to fry the Shi composition. One skilled in the art does not fry a glaze.

The Examiner was unpersuaded as "there is no position set forth to fry a glaze." As amended, the claims clarify that the starch succinate ester coated food portion is fried or par-fried, thus overcoming the rejection.

In view of the foregoing, Applicant submits the Application is now in condition for allowance and respectfully requests early notice to that effect.

Respectfully submitted,



Karen G. Kaiser
Attorney for Applicants
Reg. No. 33,506

National Starch and Chemical Company
P.O. Box 6500
Bridgewater, NJ 08807-0500
(908) 575-6152

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